

Office of the Secretary of the Interior

§ 4.203

(a) The term *Secretary* means the Secretary of the Interior or his authorized representative;

(b) The term *Board* means the Board of Indian Appeals in the Office of Hearings and Appeals, Office of the Secretary, authorized by the Secretary to hear, consider, and determine finally for the Department appeals taken by aggrieved parties from actions by administrative law judges on petitions for rehearing or reopening, and allowance of attorney fees;

(c) The term *Commissioner* means the Commissioner of Indian Affairs or his authorized representative;

(d) The term *Superintendent* means the Superintendent or other officer having jurisdiction over an estate, including area field representatives or one holding equivalent authority;

(e) The terms *agency* and *Indian agency* mean the Indian agency or any other designated office in the Bureau of Indian Affairs having jurisdiction over trust property;

(f) *Administrative law judge* (hereinafter called administrative law judge) means any employee of the Office of Hearings and Appeals upon whom authority has been conferred by the Secretary to conduct hearings in accordance with the regulations in this subpart;

(g) The term *Solicitor* means the Solicitor of the Department of the Interior or his authorized representative;

(h) The term *Department* means the Department of the Interior;

(i) The term *parties in interest* means any presumptive or actual heir, any beneficiary under a will, any party asserting a claim against a deceased Indian's estate, and any Tribe having a statutory option to purchase interests of a decedent.

(j) The term *minor* means an individual who has not reached his majority as defined by the laws of the State where the deceased's property is situated;

(k) The words *child* or *children* include adopted child or children;

(l) The words *will* and *last will and testament* include codicils thereto;

(m) The term *trust property* means real or personal property title to which is in the United States for the benefit of an Indian. In this subpart "re-

stricted property" (real or personal property held by an Indian which he may not alienate without the consent of the Secretary or his authorized representative), is treated as if it were trust property, and conversely trust property is treated as restricted property.

[36 FR 7186, Apr. 15, 1971, as amended at 39 FR 31636, Aug. 30, 1974]

§ 4.202 General authority of administrative law judges.

Administrative law judges shall determine the heirs of Indians who die intestate possessed of trust property, except as otherwise provided in §§ 4.205(b) and 4.271; approve or disapprove wills of deceased Indians disposing of trust property; accept or reject full or partial renunciations of interest in both testate and intestate proceedings; allow or disallow creditors' claims against estates of deceased Indians; and decree the distribution of trust property to heirs and devisees, including the partial distribution to known heirs or devisees where one or more potential heirs or devisees are missing but not presumed dead, after attributing to and setting aside for such missing person or persons the share or shares such person or persons would be entitled to if living. They shall determine the right of a tribe to take inherited interests and the fair market value of the interests taken in appropriate cases as provided by statute. They shall hold hearings and issue recommended decisions in matters referred to them by the Board in the Board's consideration of appeals from administrative actions of officials of the Bureau of Indian Affairs.

[52 FR 32130, Aug. 26, 1987]

DETERMINATION OF HEIRS; APPROVAL OF WILLS; SETTLEMENT OF INDIAN TRUST ESTATES

§ 4.203 Determination as to nonexistent persons and other irregularities of allotments.

(a) Administrative law judges shall hear and determine whether trust patents covering allotments of land were issued to nonexistent persons, and whether more than one trust patent covering allotments of land had been